IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 13839 of 2003

Between:

Ghulam Mohammed S/o. Ghulam Rasool
Hyderabad District Cooperative Central Bank,
R/o.10-1-944, A.C. Guards, Hyderabad

..... PETITIONER

AND

1 Registrar of Cooperative Societies Government of AP,
Gruhakalpa Buildings, Nampally, Hyderabad
2 Joint Registrar/District Cooperative Officer, R.R. District,
Samrat Complex, Saifabad, Hyderabad
3 The Hyderabad District Cooperative Central Bank
rep. by its General Manager Station Road, Nampally,
Hyderabad
4 The Board of Management, Hyderabad District Cooperative Central
Bank, Station Road, Nampally, Hyderabad
rep. by its Chairman/Person Incharge

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or a direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not releasing the retirement/terminal benefits to the petitioner, though he has retired from service on 31-5-1992, as being arbitrary, illegal, unconstitutional and violative of Article 14 and 21 of the Constitution of India and issue a consequential direction, directing the respondents to release retirement benefits to the petitioner i.e., Service Gratuty, Leave Encashment for 180 days, additional charge allowance from 1-8-86 to 28-2-89 for the additional duties performed, difference of pay of suspension period, release of earned increments and refund of cash security deposit forthwith

Counsel for the Petitioner: MR.A.GIRIDHAR RAO
Counsel for the Respondent No.: MR.R.RADHA KRISHNA REDDY

The Court made the following :

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ORDER:

Heard both sides and at their request, the main Writ Petition itself is taken up for disposal.

The petitioner who has been employee of the third respondent herein and retired as Assistant General Manager, filed this Writ Petition inter alia, seeking for a mandamus to give a direction to release the retirement/terminal benefits i.e, service Gratuity, leave encashment etc.

The complaint of the petitioner is that even though he retired from service as long back as on 31.5.1992, no such retirement/terminal benefits have been paid only on the ground of pendency of surcharge proceedings under Section 60 of the A.P. Cooperative Societies Act, which have been initiated in the year 1989. It is his contention that mere pendency of such proceedings, it cannot be said that the petitioner is not entitled to receive such benefits. In support of his contention, he relied on a decision of this court reported in T. PRABHAKAR RAO V. REGISTTRAR OF COOPERATIVE SOCIETIES, wherein, this court has held that the gratuity payable to the retired employee is not liable for attachment under the provisions of Andhra Pradesh Cooperative Societies Act and Rules made there under or even under the provisions of the payment of Gratuity Act.

Having heard the learned counsel appearing on either side and also on perusal of the material on record, the only question involved in this Writ Petition is with regard to entitlement of the respondents in proceeding against the gratuity

amount and withhold the same. The said question is no longer res integra, as held by this court in the aforesaid decision, gratuity amount cannot be attached under the provisions of the said Act.

Following the same, the Writ Petition is allowed, however, as observed therein, it is open for the respondents to recover the same from the petitioner by attachment or sale of immovable or movable properties, other than the gratuity, in accordance with law. No costs.

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B. PRAKASH RAO,J

Dated: 07.12.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, The Seventh Day of December Two Thousand and Four.

To

1 Registrar of Cooperative Societies Government of AP,
Gruhakalpa Buildings, Nampally, Hyderabad
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5.2CCs to G.P. for cooperation, High Court of A.P. Buildings, Hyderabad (OUT)

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